DOCUMENT RESUME

ED 313 784 EA 021 450

AUTHOR Hyman, Ronald T.
TITLE Educational Beliefs of Supreme Court Justices in the 1980s.
PUB DATE Nov 89
NOTE 23p.; Paper presented at the Annual Meeting of the National Organization on Legal Problems of Education (35th, San Francisco, CA, November 16-18, 1989).
PUB TYPE Speeches/Conference Papers (150) -- Legal/Legislative/Regulatory Materials (090) -- Reports - Evaluative/Feasibility (142)

EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS Case Studies; *Court Litigation; Educational Legislation; Elementary Secondary Education; *Ethics; Federal Courts; *Freedom of Speech; *Government School Relationship; Moral Values; Public Schools; *School Law; *Student Rights
IDENTIFIERS *Supreme Court

ABSTRACT

The educational beliefs of Supreme Court Justices in the 1980s are examined, i.e., the explicitly stated beliefs, rather than any inferred beliefs based on legal decisions. In particular, the focus is on beliefs expressed only in the major Court opinions rendered in the 1980s. Issues discussed include the definition of education, its relation to the First and Fourth Amendments, and its role in democracy. Discipline and education are considered as well as the power of educational decision making, curriculum, school leadership, and students' rights. The emphasis in the justices' educational viewpoints has turned in general to an emphasis on control, discipline, order, authority, and the inculcation of traditional values. (60 references) (SI)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ED313784

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)
This document has been reproduced as received from the person or organization originating it.
Minor changes have been made to improve reproduction quality.
Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

"PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY
Ronald T. Hyman
TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

Educational Beliefs of Supreme Court Justices in the 1980s*

Ronald T. Hyman

Rutgers University

New Brunswick, New Jersey

(*Paper presented at the 35th Annual Convention of the National Organization on Legal Problems of Education, San Francisco, California, November 16-18, 1989.)

It is no secret at all that the Supreme Court of the United States has been active during this past decade in the field of education. In their 1988 A Digest of Supreme Court Decisions Affecting Education, Zirkel and Richardson list 90 cases since 1980.[1] The majority of these cases directly involved schools and were not merely "affecting education" by being related to school issues. The justices of the Supreme Court have ruled on a wide range of cases concerned with education from bus transportation (Kadrmas, 1988)[2] to income tax deductions (Mueller, 1983)[3] to censorship of high school newspapers (Kuhlmeier, 1988)[4] , and to special education (Rowley, 1982).[5] In deciding these cases so, the justices have drawn on their own beliefs about education--what an education is currently and what a proper education should be--in addition to their knowledge of the law as it pertains to the cases presented to them.

At times the justices explicitly express their personal views

EA 021 450

on education within the context of their legal opinions. They do so primarily in what may be labeled as major cases dealing with the First and Fourth Amendments. While they do not always label their educational beliefs as such or draw a bright light between them and their legal opinions, it is not difficult to identify these educational beliefs. It is these explicitly stated beliefs, rather than any inferred beliefs based on legal decisions, which I shall set forth and consider in this paper. I shall emphasize beliefs expressed only in the major court opinions rendered in the 1980s because I believe that these offer an approach to understanding the Court's decisions and even a basis for predicting what the current Supreme Court justices will rely on in future cases.

An excellent starting point comes from a dissent by then Justice and now Chief Justice Rehnquist. In Pico (1982)[6] the Court supports the claim of a group of students that their Board of Education in the Island Trees Union Free School District of New York violated their First Amendment free expression rights by removing certain books from the junior and senior high school libraries. In his dissent to Brennan's opinion for the Court Rehnquist, joined by then Chief Justice Burger and Justice Powell, writes the following definition and interpretation of what education is:

> Public schools fulfill the vital role of teaching students the basic skills necessary to function in our society, and of "inculcating fundamental values

necessary to the maintenance of a democratic political system." [Ambach v. Norwick, 441 U.S. 68] at 77, 60 L.Ed. 2d 49, 99 S. Ct. 1589 [1979] The idea that such students have a right of access, in the school, to information other than that thought by their educators to be necessary is contrary to the very nature of an inculcative education.

Education consists of the selective presentation and explanation of ideas. The effective acquisition of knowledge depends upon an orderly exposure to relevant information. Nowhere is this more true than in elementary and secondary schools, where, unlike the broad-ranging inquiry available to university students, the courses taught are those thought most relevant to the young students' individual development. Of necessity, elementary and secondary educators must separate the relevant from the irrelevant, the appropriate from the inappropriate. Determining what information not to present to the students is often as important as identifying relevant material. This winnowing process necessarily leaves much information to be discovered by students at another time or in another place, and is fundamentally inconsistent with any constitutionally required eclecticism in public education.[7]

This definition of education by Rehnquist may fairly be construed as a narrow and limited view of what constitutes an education. The emphasis on basic skills, inculcation, a selective presentation of ideas by the teacher, and the orderly exposure to relevant information--relevant as determined by the teacher--indicates a willingness to support those who wish to control tightly what students will study and learn. It is consistent with and repeats Rehnquists's statement just four short pages earlier in that dissent, "When it acts as an educator, at least at the elementary and secondary school level, the government is engaged in inculcating social values and knowledge in relatively impressionable young people."[8] Surely it would not be difficult for an educator or a concerned parent to offer a broader, more comprehensive view than Rehnquist's about what constitutes an education, given that the person, too, has a concern with the "individual development" of young students within a democracy.

In any case, the belief expressed by Rehnquist, which I characterize as controlling, stands in stark contrast to the words and the tone of an earlier view on education expressed by Justice Jackson in the flag salute decision of Barnette (1943): "That they [Boards of Education] are educating the young for citizenship is reason for scrupulous protection of Constitutional freedoms of the individual, if we are not to strangle the free mind at its source...."[9] Rehnquist's belief concerning selection, orderly exposure, and inculcation also contrasts sharply with at least

three other opinions, each centering on a well-put metaphor.[10] (1) Justice Fortas's view in Tinker (1969), "In our system, students may not be regarded as closed-circuit recipients of only that which the State chooses to communicate...."[11]; (2) Justice Brennan's opinion in Keyishian (1967) that the First Amendment "does not tolerate laws that cast a pall of orthodoxy over the classroom"[12]; and (3) Justice Brennan's dissent last year in Kuhlmeier (1988) paralleling Rehnquist's own language, "Even in its capacity as educator the State may not assume an Orwellian 'guardianship of the public mind.'"[13]

Rehnquist's narrow view of what constitutes an education is not necessarily followed by other justices. Chief Justice Burger rendered in Fraser (1986)[14] what many people consider a conservative decision. In Fraser the majority supported a school board's disciplining of a high school senior for an offensive school assembly speech. Yet, compared to Rehnquist, Burger took an expansive view about education while also quoting from Ambach.[15] Burger states that the "role and purpose of the American public school system [is to] 'prepare pupils for citizenship in the Republic .... it must inculcate the habits and manners of civility as values in themselves conducive to happiness and as indispensible to the practice of self-government in the community and the nation.'"[16] For Burger the "essence of [the above] statement of the objectives of public education" is the Court's recognition in Ambach (1979) that schools are "inculcating fundamental values necessary to the maintenance of a democratic

political system."[17]

More important here, however, is Burger's acknowledgement that education is more than the selective presentation of ideas and the restriction of education "to information other than that thought by their educators to be necessary."[18] Burger states, "The process of educating our youth for citizenship in public schools is not confined to books, the curriculum, and the civics class; schools must teach by example the shared values of a civilized social order. Consciously or otherwise, teachers--and indeed the older students--demonstrate the appropriate form of civil discourse and political expression by their conduct and deportment in and out of class. Inescapably, like parents, they are role models."[19]

Burger, with this concept of education in mind, writes an opinion against the student who claimed a violation of his First Amendment right to freedom of speech. Nevertheless, it is only fair to indicate that Burger recognizes that education is a broad "process" which is not restricted to classroom didactic behavior. He recognizes that teachers educate students by what they do to and with their students--that the process of education involves not only a cognitive act focusing on ideas and knowledge but also a modeling act which teaches appropriate "conduct and deportment." Thus, even though Burger also speaks of the inculcation of fundamental values, the context of his remarks indicates a different view from Rehnquist.

Lest we think that only Rehnquist and Burger, generally

considered to be conservatives, quote the sentence of Justice Powell in the 1979 Ambach case concerning inculcating fundamental values, it is well to recall that Justice Brennan, generally acknowledged to be a liberal, quotes the same passage with approval. Brennan in his liberal opinion in Pico (1982) recognizes and approves the authority of the local school board to inculcate fundamental values.[20]. He, in contrast to what we might expect of a liberal (I grant that Brennan is known as a legal liberal and not necessarily as an educational liberal), does not speak of teaching or instructing or examining or discussing fundamental values. He still speaks of inculcating basic values. However, in recognition of the impositional--hence, negative -- meaning attached to the word "inculcating," Brennan goes on to state that schools have the obligation to behave in accordance with more liberal pronouncements about education as set forth in Barnette (1943) and Tinker (1969) in that these cases interpreted the "transcendent imperatives of the First Amendment."[21]

An even stronger recognition of the negative connotations attached to inculcative education and the resulting dilemma existing between free speech and inculcative education is expressed by Blackmun in his concurring opinion in Pico. Blackmun states, "The school is designed to, and inevitably will, inculcate ways of thought and outlooks...."[22] But he then goes on to accept, on the other hand, that the elimination of diversity will "strangle the free mind" of youth, citing Barnette (1943), just as Brennan does. Finally, Blackmun seeks a solution to the dilemma

as he states, "In starker terms, we must reconcile the schools' 'inculcative' function with the First Amendment's ban on 'prescriptions of orthodoxy.'"[23]

Elsewhere, and again building upon quotations of previous Supreme Court decisions rather than relying primarily on his own words, Brennan expresses his beliefs about education. In his majority opinion in Plyler (1982)[24] Brennan notes the centrality of education to maintaining our basic democratic institutions--that the "deprivation" of education has a "lasting impact" on a child.[25] Here, too, he quotes Ambach but quickly adds that education, in addition to inculcating values, "provides the basic tools by which individuals might lead economically productive lives to the benefit of us all."[26] Brennan, via two distinct and perhaps mixed metaphors, states that "education has a fundamental role in maintaining the fabric [emphasis added] of our society" and that "our Nation" bears "significant social costs" when "groups are denied the means to absorb [emphasis added] the values and skills upon which our social order rests."[27]

There is nothing particularly unusual about Brennan's statement concerning the vital role of education in our democracy. Every justice takes the same stance. What is different is Brennan's emphasis on the necessity of an individual's learning of skills as the basic tools to achieve economic productivity for everyone's mutual benefit. Whereas Rehnquist emphasizes ideas and knowledge in addition to fundamental values, Brennan emphasizes skills for maintaining our social fabric. What is puzzling, however, is

Brennan's use of the concept of absorption because, from a pedagogical perspective, the absorption of values, as different from the learning of, or the internalization of, or the commitment to values, may have a definite negative connotation. Progressive educators, in contrast to conservative or controlling educators, seek the active and reflective involvement of students with values and not the mere passive absorption of values. Furthermore, it is not at all clear how a student absorbs skills, which require action by their very nature.

In two later cases, Grand Rapids (1985)[28] and Kuhlmeier (1988)[29] Brennan repeats the essence of the beliefs he sets forth in the two 1982 opinions of Pico and Plyler. He even re-cites some of the same earlier opinions. However, in several ways he adds significant points which distinguish him as a liberal -- perhaps even a progressive -- person in education as well as in law. In Grand Rapids Brennan acknowledges a major educational maxim: the learning environment is critical and influential in education. First, Brennan quotes Justice Blackmun in Wolman (1977) concerning the "pressures of the environment" which cause a teacher to "alter his behavior."[30]. Then he goes on to state on his own that teachers "may well subtly (or overtly) conform their instruction to the environment in which they teach."[31] Such an opinion reflects the recognition that what influences a student's education goes beyond the substantive ideas presented by the teacher. Such an opinion reflects the recognition that education is more than the syllabus outlining the knowledge, skills, and

values to be taught to the students.

Finally in his dissent in Kuhlmeier, Brennan states that public school education serves to "convey information and tools" required not merely to help a child to adapt to society, or to fit into the fabric of our society, or to "survive" in our society but "to contribute to civilized society."[32] His progressive tone is buttressed by his statement that "the public educator nurtures the students' social and moral development."[33] His choice of words -- tools, contribute, nurture, social and moral development -- and the tone they create in their context indicate clearly that Brennan does not have educational beliefs focused on the control of students but on openness, the dynamic interaction among the persons involved in education, and the development of the students' social, moral, and intellectual dimensions.

From my experience in discussions with classroom teachers one of the most provocative educational belief of the 1980s is the one Justice Powell advocates in his concurring opinion in T.L.O. (1985).[34] After stating that there are "special characteristics of the elementary and secondary schools that make it unnecessary to afford students the same constitutional protection granted adults and juveniles in a nonschool setting,"[35] that "there is a commonality of interests between teachers and their pupils"[36] in contrast to the adversarial relationship between law enforcement officers and criminal suspects, and that the "primary duty" of educators "is the education and training of young people"[37] (without distinguishing between the concepts of education and

training), Powell boldly claims, "Without first establishing discipline and maintaining order, teachers cannot begin to educate their students."[38]

From his perspective as a parent, lawyer, judge, and former school board head in Richmond, Virginia for nine years (1952-1961), Powell espouses a "discipline first" theory of pedagogy. This theory separates discipline and order from education. Powell constructs a linear, sequential relationship with a logical progression which connects discipline to education. Powell's theory goes beyond the moderate claim by Justice White, who says, in his majority opinion for T.L.O., that "maintaining order in the classroom has never been easy."[39] This discipline first theory appears to offer the rationale for Powell's willingness to agree that school officials may search students when having only reasonable cause rather than probable cause, as specified in the Fourth Amendment.

Powell is not alone in supporting a discipline first theory. Justice Blackmun in his own concurring opinion for T.L.O. quotes Powell's discipline first theory and that quotation is the only one Blackmun makes from the other four opinions written as part of that case. Blackmun uses Powell's theory as a springboard to offer his own parallel view on child development ("...children at certain ages are inclined to test the outer boundaries of acceptable conduct and to imitate the misbehavior of a peer if that behavior is not dealt with quickly") in order to support his opinion that only reasonable suspicion is required to justify a

search of a student by an educator.[40]

Powell's educational belief is provocative in that the separation of discipline and education -- with discipline as a prior condition for education -- is questionable at the very least. Indeed, one way to establish discipline and order, as many veteran teachers will attest, is to begin to teach. As students become involved with the teacher in the lesson, they come to order and focus their energies on what the teacher has planned for them. Moreover, from an educator's perspective discipline does not exist prior to education but is a constituent element of education. By the very way the teacher establishes discipline the teacher is educating the students. The students learn what constitutes proper behavior in a learning environment and also how to relate to an older person in a position of authority. In this way discipline is never prior to education at all. Discipline is education; there is no linear relationship between the two concepts.

Based on such an approach to understanding discipline, teachers must be extremely careful in their actions aimed at "establishing discipline and maintaining order." While Powell's view may be initially attractive to a troubled teacher of an unruly group of students, the discipline first theory is so deceptively simplistic and misleading as to be pedagogically invalid. Nevertheless, Powell's view is attractive to some classroom teachers because it offers support and guidance of a sort for dealing with students. But whether simplistic or not and whether invalid or not, the

discipline first theory is entirely consistent with Powell's previous notable opinions in Ingraham (1977)[41] and Goss (1975)[42] where he emphasizes student obedience and the authority of school officials.

Powell's strongest and most persistent educational belief concerns not pedagogy but the power of educational decision making. Even though Powell in San Antonio (1973)[43] does not support a fundamental, constitutional right to education, in Plyler (1982), a case dealing with the rights of illegal aliens to attend the public schools of Texas, he explicitly states the need for the education of youth. For him the lack of an education leads to an illiterate subclass of people and the problems and costs attendant upon "unemployment, welfare, and crime."[44] Then two weeks after Plyler, Powell, in his dissenting opinion in Pico (1982), forcefully declares his fundamental position, which he asserts is "a basic concept of public school education: that the States and locally elected school boards should have the responsibility of determining the educational policy of the public schools."[45] This belief regarding decision making in the schools is exactly what one would expect from a former member of a local board of education who became a state board of education member.

Powell offers a glimpse of his beliefs about curriculum for the schools in his concurring opinion in Edwards (1987),[46] a case dealing with the Louisiana Balanced Treatment for Creation-Science and Evolution-Science Act and which the Court ruled unconstitutional. Powell explicitly states that he writes

"separately--to note certain aspects of the legislative history, and to emphasize that nothing in the Court's opinion diminishes the traditionally broad discretion accorded state and local officials in the selection of the public school curriculum."[47] (It is Powell's last opinion before retirement, and he takes the opportunity to remind everyone of his most persistent educational belief.) He then goes on to set forth his opinion about religion in the curriculum: "As a matter of history, school children can and should [emphasis added] properly be informed of all aspects of this Nation's religious heritage."[48]

Powell justifies his belief about religion in the curriculum by stating that "since religion permeates our history, a familiarity with the nature of religious beliefs is necessary to understand many historical as well as contemporary events."[49] In a footnote he explicates his viewpoint by asserting that the then-current "political controversies in Northern Ireland, the Middle East, and India cannot be understood properly without reference to the underlying religious beliefs and the conflicts they tend to generate."[50]. Powell sees "no constitutional problem" in the schools teaching about our religious heritage.[51] Thus, in matters of discipline, school leadership, students rights, and curriculum Powell presents a consistent pattern of educational beliefs which identify him as an educational conservative.

Justice White has written two major opinions for the Court in the area of education which deserve attention because of their wide coverage in legal and general publications as well as because

of their impact on the schools: T.L.O. (1985)[52] and Kuhlmeier (1988).[53] Even though the focus of his T.L.O. majority opinion is on the legal issues concerning the need for reasonable cause rather than probable cause in searching a student for cigarettes and drugs, White manages to include a few sentences concerning his educational beliefs. The focus of these beliefs appears to be on his basic premise that teaching is and always has been difficult in the public schools because "maintaining order in the classroom has never been easy."[54] Currently, according to White, "school disorder has often taken particularly ugly forms: drug use and violent crime in the schools have become major problems."[55]

For White, in all schools it is necessary to have two things: 1) "close supervision" of students; and 2) "enforcement of rules" in order to have "preservation of order and a proper educational environment."[56] White states that "flexibility in school disciplinary procedures" and the "informality of the student-teacher relationship" are required to maintain "security and order."[57] In presenting his thoughts about education White writes about order and disorder four times, discipline four times (three times on his own plus one time in a quotation from Goss [1975]), and security one time. He creates an image of schools in need of reasonableness and control. Thus, the control of students based on discipline and order is the belief underpinning White's legal decision in T.L.O., a decision which does not require school officials to obtain a search warrant justified by probable cause in order to search a student legally.

Three years later in his majority opinion in Kuhlmeier, a case dealing with the claim by three high school editors of a violation of their First Amendment right to free speech, White returns to his focus on reasonableness in the control of students. While referring to Brown (1954)[58] and Tinker (1969)[59] regarding the importance of education and the First Amendment rights of students, White nevertheless claims that teachers are entitled to exercise "control" over a student newspaper which is school sponsored. White grants the school the authority to "disassociate itself" from disruptive speech, to set "high standards" for student speech, to take into account the level of "emotional maturity" of students, to refuse to sponsor student speech which advocates activities "inconsistent with our society's 'shared values'" (e.g., "drug or alcohol use" and "irresponsible sex"), and to refuse "to associate the school with any position other than neutrality on matters of political controversy" when making educational decisions.[60]

We may agree or disagree with White regarding the above grants of authority. Either way, the last grant regarding the enforcement of school neutrality appears puzzling, to say the least. In light of his position against drugs, alcohol, and irresponsible sex which surely have become political issues in the 1980s, it seems strange that White allows the school to remain neutral on political controversies. While he might well approve a school's neutrality on Middle East conflicts or the use of atomic energy to power electric generators, it seems strange that he

would approve a school remaining neutral about punishment of drug abusers, child abusers, and traitors during war time. It would seem strange for a school to remain neutral on certain political issues, especially those which are central to a school's very existence. To me White's position is not clear here.

In rejecting the claim of the student editors and supporting the action of the principal of Hazelwood East High School in deleting a part of the student newspaper, White over and over again uses the word "reasonable" in its several forms. Eight separate times White states that the principal acted reasonably, thereby not violating the students' rights. This may, indeed, be a reference to and reinforcement of the reasonable standard he initiated in T.L.O. However, whether reasonableness in suspecting illicit criminal activity so as to justify a search of a person (Fourth Amendment) is the same as reasonableness in censoring a student newspaper so as to justify the limitation of a person's free expression (First Amendment) is an open question at this point. Suffice it to say here that White believes that educators must act reasonably in the educational context of schools.

In summary, the educational beliefs of the justices of the Supreme Court are fragmentary but most revealing. As the general political stance of the country in the 1980s has turned conservative compared with the 1960s, the emphasis in the justices' educational viewpoints has turned in general to an emphasis on control, discipline, order, authority, and the inculcation of traditional values. This is true even though the

justices inevitably acknowledge and quote with approval the broad, liberal proclamations presented in earlier Court decisions about the role and importance of education and the fundamental rights of students.

In setting forth their views on education the justices use the technique of quoting and citing the previous opinions of other justices of the Court. This is as expected in that the justices are trained lawyers who normally cite precedent in order to further their own purposes. However, even though they build upon previous liberal statements about individual fundamental rights, by their very positions as elder judges and successful graduates from the lower, higher, and professional school systems, the justices generally take a traditional view about the education of our youth. This, too, is as expected. It would be surprising, indeed, if the justices took a progressive approach to the public education system.

We might not agree with the educational beliefs of these justices who are not trained educators, but we would do well to understand them. These beliefs are the underpinnings of decisions which have significant and direct influence on our schools. We might not agree with Rehnquist's concept of what constitutes education, for example, but we would do well to understand the Chief Justice's view on education because it influences his decisions directly and thereby influences our schools.

The educational beliefs of the Supreme Court justices might not be consistent, acceptable, cohesive, or complete. Were they

the dominant beliefs guiding our schools today, these educational beliefs might even be counter-productive pedagogically. No matter. These are the beliefs which underpin the legal decisions which help shape the educational systems within our democracy. By understanding these educational views we can gain an insight into the justices whose opinions influence us daily.

Endnotes

1. Perry A. Zirkel and Sharon N. Richardson, A Digest of Supreme Court Decisions Affecting Education (Bloomington: Phi Delta Kappa Educational Foundation, 1988).
2. Kadrmas v. Dickinson Public Schools, 108 S.Ct. 2481 (1988).
3. Mueller v. Allen, 463 U.S. 388 (1983).
4. Hazelwood School District v. Kuhlmeier, 108 S.Ct. 562 (1988).
5. Board of Education of the Hendrick Hudson Central District v.Rowley, 458 U.S. 176 (1982).
6. Board of Education, Island Trees Union Free School District No. 26 v. Pico, 457 U.S. 853 (1982).
7. Id. at 913.
8. Id. at 909.
9. West Virginia Board of Education v. Barnette, 319 U.S. 624, 637.
10. For more on the justices' use of metaphors see Haig Bosmajian, "The Judiciary's Use of Metaphors, Metonymies, and Other Tropes to Give First Amendment Protection to Students and Teachers," Journal of Law and Education, Vol. 15, Number 4, Fall, 1986, pp. 439-463.
11. Tinker v. Des Moines School District, 393 U.S. 503, 511 (1969).
12. Keyishian v. Board of Regents, 385 U.S. 589, 603 (1967).
13. Kuhlmeier at 577.
14. Bethel School District No. 403 v. Fraser, 478 U.S. 675 (1986).

15. Ambach v. Norwick, 441 U.S. 68 (1979).

16. Fraser at 681.

17. Id. and quoting Ambach.

18. See quotation from Rehnquist, supra.

19. Fraser at 683.

20. Pico at 864.

21. Id.

22. Id. 879.

23. Id.

24. Plyler v. Doe, 457 U.S. 202 (1982).

25. Id. at 221.

26. Id.

27. Id.

28. School District of the City of Grand Rapids v. Ball, 473 U.S. 373 (1985).

29. Hazelwood School District v. Kuhlmeier, 108 S.Ct. 562 (1988).

30. Wolman v. Walter, 433 U.S. 229, 247.

31. Grand Rapids at 388.

32. Kuhlmeier at 573.

33. Id.

34. New Jersey v. T.L.O., 469 U.S. 325 (1985).

35. Id. at 348.

36. Id. at 350.

37. Id.

38. Id.

39. Id. at 339.

40. Id. at 352.

41. Ingraham v. Wright, 430 U.S. 651 (1977).

42. Goss v. Lopez, 419 U.S. 565 (1975).

43. San Antonio Independent School District v. Rodriguez, 411 U.S. 1 (1973).

44. Plyler at 456.

45. Pico at 893.

46. Edwards v. Aguillard, 482 U.S. 578 (1987).

47. Id. at 597.

48. Id. at 606.

49. Id. at 607.

50. Id.

51. Id. at 606.

52. New Jersey v. T.L.O., 469 U.S. 325 (1985).

53. Hazelwood School District v. Kuhlmeier, 108 S.Ct. 562 (1988).

54. T.L.O. at 339.

55. Id.

56. Id.

57. Id. at 340.

58. Brown v. Board of Education of Topeka, 347 U.S. 483 (1954).

59. Tinker v. Des moines School District, 393 U.S. 503 (1969).

60. Kuhlmeier at 570.